

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOHN H. UNDERHILL,

Plaintiff,

Case No. 14-cv-14768

v

Honorable Thomas L. Ludington

SHERI ROYER, et al.,

Defendants.

**ORDER DENYING MOTION TO DISMISS AS MOOT, REJECTING STIPULATION
AS MOOT, AND CANCELLING HEARING**

On December 17, 2014, Plaintiff John H. Underhill filed a complaint against Defendants, alleging violations of his procedural and substantive due process rights and seeking a declaratory judgment. On February 2, 2015, Defendants Scott Pavlich and Sheri Royer each filed a motion to dismiss the complaint. ECF Nos. 14, 15. The Court therefore set the motions to dismiss for hearing on April 15, 2015.

On February 23, 2015, Underhill filed a First Amended Complaint.¹ ECF No. 19. Federal Rule of Civil Procedure 15(a)(1)(B) permits a party to amend a pleading as a matter of course “21 days after service of a motion under Rule 12(b)” Having filed an amended complaint as a matter of course, Underhill’s amended complaint supersedes the original complaint for all purposes. *Calhoun v. Bergh*, 769 F.3d 409, 410 (6th Cir. 2014). “The filing of the amended complaint ‘render[s] the original complaint null and void.’” *Glass v. The Kellogg Co.*, 252 F.R.D. 367, 368 (W.D. Mich. 2008) (quoting *Vadas v. United States*, 527 F.3d 16, 22 n.4 (2d Cir. 2007)).

¹ Underhill has not explained how his Amended Complaint differs from his original Complaint.

Because the original complaint has been superseded, there is no longer a live dispute about the merits of the claims asserted in it. *See Cedar View, Ltd. v. Colpetzer*, 2006 WL 456482, at *5 (N.D. Ohio Feb. 24, 2006) (the “earlier motion to dismiss . . . and motion for judgment on the pleadings . . . are denied as moot, as they refer to a version of the complaint that has since been replaced . . .”).

Accordingly, it is **ORDERED** that the Defendant Scott Pavlich’s Motion to Dismiss the Complaint (ECF No. 14) is **DENIED AS MOOT**.

It is further **ORDERED** that Defendant Sheri Royer’s Motion to Dismiss the Complaint (ECF No. 15) is **DENIED AS MOOT**.

It is further **ORDERED** that the parties’ stipulation to extend the deadline for Underhill to respond to the motions to dismiss is **REJECTED AS MOOT**.

It is further **ORDERED** that the hearing set for April 15, 2015 is **CANCELLED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 24, 2015

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 24, 2015.

s/Tracy A. Jacobs
TRACY A. JACOBS